

Arbitration

(A resource for community advice offices and community-based paralegals brought to you by NADCAO, Brought to you by NADCAO, from the Paralegal Manual published by the Education and Training Unit and the Black Sash.)

In an arbitration, a third party, acceptable to both parties, is called in to help the parties resolve the conflict. The difference between an arbitration and a mediation is that in an arbitration, the arbitrator is called on to make a decision about who is right or wrong. In other words, the arbitrator acts like a judge.

The arbitrator chairs the hearing at which both parties are present, listens carefully to both sides of the story, listens to any witness, and looks at any documents which might be produced as evidence. He or she then goes through all the evidence and decides who wins the arbitration. The arbitrator writes down the reasons for his or her decision in a judgment and gives this to the parties.

Before the arbitration takes place, the parties should agree in writing on the parameters of the arbitrator's powers. For example, will the arbitrator's decision be final or will there be a right of appeal. Usually the parties agree that the decision of the arbitrator is final. This means the parties must obey this decision and the losing party cannot appeal against the decision.

An arbitrator should use proper legal principles to interpret the evidence, but the arbitration process need not be as formal as in a court.